

1 BRIAN W. BOSCHEE, ESQ.
2 Nevada Bar No. 7612
3 E-mail: bboschee@nevadafirm.com
4 KIMBERLY P. STEIN, ESQ.
5 Nevada Bar No. 8675
6 E-mail: kstein@nevadafirm.com
7 RACHEL E. DONN, ESQ.
8 Nevada Bar No. 10568
9 E-mail: rdonn@nevadafirm.com
HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101
Telephone: 702/791-0308
Facsimile: 702/791-1912

9 GOODMAN LAW GROUP
10 A Professional Corporation
11 ROSS C. GOODMAN, ESQ.
12 Nevada Bar No. 7722
13 520 S. Fourth St., 2nd Floor
14 Las Vegas, Nevada 89101
15 Telephone: (702) 383-5088
16 Facsimile: (702) 385-5088
17 Email: ross@goodmanlawgroup.com

Attorneys for Defendants Desert Lifestyles, LLC and Western Golf Properties, LLC

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

18 STEVE HELLERSTEIN, an individual; TOM
19 ALLEN, an individual; JED ARMSTRONG, an
individual; WENDY ARMSTRONG, an
individual; LESLEY ALBERS, an individual;
20 BILL TURNER, an individual; KEVIN BATTY,
an individual; JON BRADFORD, an individual;
MICHELLE BRADFORD, an individual; JOHN
21 CLERKEN, an individual; KATHY CLERKEN,
an individual; LYNNE ELLS, an individual;
TOM ELLS, an individual; BOB GOMPERZ, an
individual; ROBERT "GONZO" GONZALES,
22 an individual; VIVIAN GONZALES, an
individual; MARK GOODE, an individual;
RITA GOODE, an individual; DENNY
23 HIBLER, an individual; JEANNE HIBLER, an
individual; MELANIE ELLS-HILL, an
individual; DAVE HOLTER, an individual;
JANIS HOLTER, an individual; MARK
24 JOHNSON, an individual; HARRY KELMAN,
an individual; CHANCE LARSEN, an
individual; JEFFREY LEVIN, an individual;

Case No.:

DEFENDANTS' NOTICE OF REMOVAL

1 BILL MANN, an individual; WYNN MANN, an
2 individual; TOM MASSON, an individual;
3 AUDREY MASSON, an individual; JIM
4 MEINEL, an individual; SAM MEINEL, an
5 individual; WADE MOSEMAN, an individual;
6 CASEY MOSEMAN, an individual; DICK
7 NIELSEN, an individual; EDWARD PACKERT,
8 an individual; ADELE PACKERT, an individual;
9 LARRY SANTOS, an individual; MARLA
10 SANTOS, an individual; RICK SCHMIDTKE,
11 an individual; CANDY SCHMIDTKE, an
12 individual; PAT SELWAY, an individual; RICK
13 SHIELDS, an individual; ROXIE SHIELDS, an
14 individual; ZANE STEMPLE, an individual;
15 LUANN DEIBERT, an individual; GREG
16 TWEDT, an individual; LINDA TWEDT, an
17 individual; WILLIAM A. WALTER, an
18 individual; MURIEL J. WALTER, an individual;
19 MIKE WEISS, an individual; NANCY WEISS,
20 an individual; JACK WELLS, an individual;
21 PATTI WELLS, an individual; JOE MIR, an
22 individual; FARHAT MIR, an individual;
23 STEVE MORRILL, an individual; KATHY
24 MORILL, an individual;

Plaintiffs,

v.

DESERT LIFESTYLES, LLC, a California
limited liability company; WESTERN GOLF
PROPERTIES, LLC, a California limited
liability company registered in the State of
Nevada as a foreign limited liability company;
and DOE Individuals I-X and ROE Entities I-X,
inclusive;

Defendants.

DEFENDANTS' NOTICE OF REMOVAL

Defendants, DESERT LIFESTYLES, LLC (“DL”) and WESTERN GOLF PROPERTIES, LLC (“WG”) (collectively “Defendants”), all jointly remove this action from the Eighth Judicial District Court for the State of Nevada to the United States District Court for the District of Nevada.

I. Introduction

This was action was filed on September 7, 2015 in the Eighth Judicial District Court for the State of Nevada by a series of homeowner named Plaintiffs, who live within the Silverstone

1 Ranch community in northwest Las Vegas, Nevada. The homeowners are suing the Defendants
 2 for declaratory and injunctive relief on the belief that Defendants have violated the homeowners
 3 rights under the Second Amended and Restated Reciprocal Easement Agreement and Covenant
 4 to Share Costs recorded on the entire golf course property, Silverstone Ranch community, on
 5 June 14, 2002 (the “Golf Course Agreement). The homeowners sought an order for declaratory
 6 relief, a temporary restraining order, a preliminary and permanent injunction, attorneys’ fees as
 7 special damages under the Golf Course Agreement and pre- and post- judgment interest.
 8 Concurrent with the complaint, the homeowners filed an Ex-Parte Application for Temporary
 9 Restraining Order; and Motion for Certain Declaratory Relief and Preliminary Injunction.

10 DL is a California limited liability company, who purchase the golf course property on or
 11 about September 1, 2015. WG is also a California limited liability company, which is registered
 12 to do business in the State of Nevada as a foreign limited liability company with its principal
 13 place of business in California. WG provides management and other services related to golf
 14 course properties and were purported hired by DL to assist with the management of the
 15 Silverstone Ranch community.

16 After the filing of the Complaint by the homeowners, the Silverstone Ranch Community
 17 Association, a Nevada non-profit corporation (“HOA”) filed a Complaint In Intervention on
 18 September 11, 2015 in an attempt to become the Plaintiff In-Intervention¹, and seeking similar
 19 remedies, and all under the Golf Course Agreement. The HOA is seeking an order for
 20 declaratory relief, specific performance, injunction relief, attorneys’ fees and costs. Following
 21 the filing of its complaint-in-intervention, the HOA filed an emergency Application for Order to
 22 Show Cause why Defendants should not be held in Contempt of Court Order.

23 As of the current date, it is unclear DL has been served properly. WG was served on
 24 September 10, 2105.

25 ///

26 ///

27 ¹ Of note, instead of filing a Motion to Intervene, the HOA entered into a stipulation with the Plaintiffs to become
 28 an intervener, without proper basis, notice or authority.

1 **II. Removal is Timely**

2 This action was filed on September 7, 2015 in the Eighth Judicial District Court
3 for the State of Nevada. The Complaint In Intervention was filed on September 11, 2015.
4 Defendant DL has not yet been served in this matter. Defendant WG was served September 10,
5 2015. A notice of removal generally must be filed “within 30 days after the receipt by the
6 defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim
7 for relief upon which such action or proceeding is based.” *See 28 U.S.C. §1446(b)(1).* In
8 addition, “if the case stated by the initial pleading is not removable, a notice of removal may be
9 filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of
10 an amended pleading, motion, order or other paper from which it may first be ascertained that the
11 case is one which is or has become removable.” *See 28 U.S.C. §1446(b)(3).* Given that the
12 initial pleading was filed September 7, 2015 and the Complaint-In-Intervention was filed
13 September 11, 2015, removal is timely.

14 **III. Grounds For Removal**

15 This court has diversity jurisdiction under 28 U.S.C. §1332. Removal is proper pursuant
16 to 28 U.S.C. §1441 and 1446. None of the Defendants are citizens of the State of Nevada, both
17 are California citizens. The Plaintiffs are all Nevada citizens. In determining whether a civil
18 action is removable on the basis of the jurisdiction under 28 U.S.C. §1332, the sum demanded in
19 good faith in the initial pleading shall be deemed to be the amount in controversy, except that the
20 notice of removal may assert the amount in controversy if the initial pleading seeks (i)
21 nonmonetary relief. *See 28 U.S.C. §1446(c)(2)(A).* As both the Complaint and Complaint-In-
22 Intervention seek attorneys’ fees, based on the pleadings already filed, and estimated to come,
23 and based on the Golf Course Agreement, in which the prevailing party would be entitled to
24 attorneys’ fees, the attorneys’ fees easily will exceed the sum or value of \$75,000, and as such,
25 the amount in controversy, including attorneys’ fees meets the jurisdictional threshold.

26 **IV. The Defendants have Met All Other Requirements for Removal**

27 A. The Defendants have attached to this Notice copies of all process, pleadings and
28 orders file in the Eighth Judicial District Court for the State of Nevada prior to the filing of this

1 || Notice of removal. (See attached table of Exhibits A through X).

2 B. The Defendants have concurrently filed a copy of this Notice in the Eighth
3 Judicial District Court for the State of Nevada.

4 C. Plaintiffs have been served with a copy of this Notice.

5 Dated this 18th day of September, 2015.

HOLLEY DRIGGS WALCH
FINE WRAY PUZEY & THOMPSON

/s/ Kimberly P. Stein

BRIAN W. BOSCHEE, ESQ.

Nevada Bar No. 7612

KIMBERLY P. STEIN, ESQ.

Nevada Bar No. 8675

400 South Fourth Street, Third Floor
L. U. N. 1-22121

Las Vegas, Nevada 89101

GOODMAN LAW GROUP

A Professional Corporation

ROSS C. GOODMAN, ESQ.

Nevada Bar No. 7722

520 S. Fourth St., 2nd Floor

Las Vegas, Nevada 89101

Attorneys for Desert Lifest

Golf Properties, LLC

*Attorneys for Desert Lifestyles, LLC and Western
Golf Properties, LLC*

EXHIBIT	DOCUMENT
A	Verified Complaint
B	Plaintiffs' Ex-Parte Application for Temporary Restraining Order; and Motion for Certain Declaratory Relief and Preliminary Injunction
B-1	Property Submitted to Community
B-2	Golf Course Property
B-3	Residential Property Owner's Owned Property
B-4	Declaration of Erik Pike Turner in Support of Ex Parte Application for temporary Restraining Order and Motion for Preliminary Injunction
C	Notice of Posting Bond
D	Notice of Entry of Order Granting Temporary Restraining Order
E	Temporary Restraining Order
F	Summons Western Golf Properties, LLC
G	Stipulation and Order to Allow Plaintiff-In-Intervention Silverstone Ranch Community Association to Intervene in This Matter
H	Notice of Entry of Stipulation and Order to Allow Silverstone Ranch to Intervene in This Matter
I	Initial Appearance Fee Disclosure
J	Complaint-In-Intervention
K	Emergency Application For Order to Show Cause Why Defendants Should not Be Held In Contempt of Court
K-1	Exhibits to Emergency Application
K-2	Continued Exhibits to Emergency Application
L	Certificate of Service
M	Order To Show Cause
N	Plaintiff-In-Intervention Silverstone Ranch Communication Association's Joinder to Plaintiffs' Ex-Parte Application For Temporary Restraining Order and Motion For Preliminary Injunction; And Further Motion For Certain declaratory Relief and Preliminary Injunction
O	Notice of Entry of Order to Show Cause
P	Notice of Department Reassignment
Q	Notice of Change of Hearing
R	Initial Appearance Fee Disclosure
S	Defendants' Opposition to Plaintiffs' Motion For Preliminary Injunction And Countermotion to Dissolve TRO
T	Defendants' Motion To compel Arbitration
U	Defendant Western Golf Properties, LLC's Peremptory Challenge
V	Appendix Table of Authorities To Defendant's Opposition to Plaintiffs' Motion For Preliminary Injunction And Countermotion to Dissolve TRO
V-1	Continued Exhibits to Appendix Table
V-2	Continued Exhibits to Appendix Table
W	Plaintiff-In-Intervention Silverstone Ranch Community Association's Disclosure Statement Pursuant to NRCP 7.1
X	Defendants' Motion to Strike Order to Show Cause Why Defendants should Not Be Held In Contempt on Order Shortening Time